

Serial No. 10/578,743  
Atty. Docket No. P71140US0

REMARKS

The Office Action mailed April 1, 2008, has been carefully reviewed and, by this Amendment, Applicant has canceled claim 4, amended claims 1-3 and 5-15 and added claims 16-21. Claims 1-3 and 5-21 are pending in the application. Claims 1 and 16 are independent.

The Examiner objected to the abstract and specification as containing informalities which Applicant has corrected herein. The text added to pages 1 and 3 of the specification substantially corresponds with the claim language previously incorporated. No new matter has been added.

Applicant also points out that with the amendments set forth herein, the specification and claims have been modified to refer to a "dialyzer" instead of a "hemodialysis machine". The phrase "hemodialysis machine" was introduced into the application as part of the translation from German. While this phrase is broadly accurate, the word actually used in the German text is "dialyzer" which more specifically defines the intended subject matter. That this subject matter was intended in the original application is evident from the translated abstract appearing on the front page of the corresponding international application, published as WO 2005/046785, which describes the present invention

Serial No. 10/578,743  
Atty. Docket No. P71140US0

as "a connector (1) which is used to connect a dialysis port (31) of a blood *dialysator...*" (emphasis added). The term "dialysator" is used throughout this abstract. In addition, persons of ordinary skill in the art would know that the intended structure with which the connector is engaged is a *dialyzer* as a hemodialysis machine is a complex device containing the mechanical and electronic parts to control the dialysis. The dialyzer, on the other hand, is usually disposable and exchanged from one treatment to the next and has no moving parts, i.e., is not a "machine". Furthermore, in the prior art discussion portion of the specification, EP 0 442, 310 A1 is identified as describing dialysis machine ports of a "hemodialysis machine" when, as with the present invention, what is clearly shown in EP 0 442, 310 A1 is a dialyzer 1 (see Figure 1 and the abstract thereof). Accordingly, to more accurately define the intended subject matter of the present application, the specification and claims have been amended as set forth herein to refer to a dialyzer. No new matter has been added.

The Examiner rejected claim 4 under 35 U.S.C. 112, second paragraph, as being indefinite. Claim 4 has been canceled.

The Examiner rejected claims 1-15 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,092,243 to Breese. In setting forth this rejection, the Examiner stated that the language

Serial No. 10/578,743  
Atty. Docket No. P71140US0

in the claim pertaining to the connector as being for connecting the dialysate line to a hemodialysis machine, i.e., to a dialyzer, is an intended use that carries little patentable weight in an apparatus claim.

As set forth herein, claim 1 has been amended, and new claim 16 presented to positively claim the dialyzer in combination with the connector. This is not shown by the prior art.

Breese discloses a connector which has been known for many years to be useful in particular applications. Yet after almost 70 years, no one in the field of hemodialysis has recognized that the Breese type of connector, when properly adapted, can be used effectively as an adaptor for the dialysate port of a dialyzer. On the contrary, the usual and known connectors used for dialyzers are so-called Hansen couplings as described on page 1 of the specification. Hansen couplings are not generally considered to be "disposable". However, in the context of particular dialyzer applications, there are times when disposable connectors are needed (see the first full paragraph on page 2 of the specification). The present inventor was the first to recognize that connectors like that shown in Breese, which had never been considered for use in the field of hemodialysis before, could be used effectively on the same dialyzer ports that are usually fitted to Hansen couplings.

Serial No. 10/578,743  
Atty. Docket No. P71140US0

For at least the foregoing reasons, claims 1 and 16 are neither anticipated by nor obvious in view of Breese, and are patentable thereover. Favorable reconsideration and allowance thereof, along with claims 2, 3, 5-15 and 17-21 dependent thereon, is requested.

With this amendment and the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By H. B. Jacobson, Jr. Reg. No. 40,495  
Harvey B. Jacobson, Jr.  
Reg. No. 20,851

400 Seventh Street, N.W.  
Washington, D.C. 20004-2201  
(202) 638-6666  
Date: July 1, 2008  
HBJ/SCB  
R:\SBAILEY\2008\07-08\P71140US.amd